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09/589,391	06/07/2000	Thaddeus John Gabara	1298/0F379	9139

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MENDELSON AND ASSOCIATES PC  
1515 MARKET STREET  
SUITE 715  
PHILADELPHIA, PA 19102

EXAMINER

FAULK, DEVONA E

ART UNIT PAPER NUMBER

2644

DATE MAILED: 04/09/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/589,391	GABARA ET AL.	
	Examiner	Art Unit	
	Devona E. Faulk	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,7-11 and 13-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1--17,19-27,36,44-48 is/are rejected.
- 7) ☒ Claim(s) 18, 28-35,37-39,41,42, 49-56 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed have been fully considered but they are not persuasive.

Regarding applicant's assertion that claim 6 would be allowable if rewritten in independent form, the examiner did previously state that claim 6 would be allowable if rewritten in independent form however the examiner has taken a closer look at claim 6 and determined that the audiogram itself reads on the claimed audiogram. An audiogram is defined as a graphic record of hearing ability for various sound frequencies that is used to measure hearing loss. Thus the audiogram is, as defined, a compensation curve for adjusting performance characteristics of the hearing aid as claimed.

Regarding applicant's assertion that claim 12 would be allowable if rewritten in independent form, the examiner did previously state that claim 12 would be allowable if rewritten in independent form however the examiner has determined that this was an oversight. The original form of claim 12 reads similarly to the original form of claim 5. Claim 5 was originally rejected and claim 12 should have been rejected on the same merits.

Applicant's arguments with respect to claims 1,8,9,11, and 18 have been considered but are moot in view of the new ground(s) of rejection.

Regarding applicant's assertion that claims 23,36,40 and 44 are allowable over the cited references, the examiner agrees but the argument is moot view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-4, and 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rho (U.S. Patent 6,086,541) in view of Basseas (U.S. Patent 6,674,867).

Regarding **claim 1**, Rho discloses a method for testing hearing ability by using an automatic voice response system run by a computer comprising a computer (that includes the program) and a telephone. The user would call, the program is logged into, and the test program proceeds to execute a test (column 2, lines 35-column 5). The testing would begin and the user indicates, through the # button, whether a sound has been heard. The test proceeds until completed. This method reads on “generating a command via a first computer at a first location”, “transmitting the command to a second computer at a second location over a remote data link”, “receiving a user response to the test tone over the remote data link”, and “sending the command from the second computer to a digital signal processor in one of a telephone or hearing aid” because the telephone itself reads on a second computer and there is obviously a digital signal processor internal to the phone. This also reads on the “outputting a test tone from the digital signal processor based on the output command to a user of the telephone”. Although Rho teaches on the above elements, he fails to teach of a hearing aid present during the testing and= that the computer system processes the one or more responses from the user to generate parameters for controlling the operations of the hearing aid and the computer system

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transmitting the parameters to the hearing aid to adjust the operations of the hearing aid.

However, the concept of a computer system processing one or more responses for controlling a hearing aid and a computer system that transmits the parameters of the hearing aid as claimed were well known in the art at the time of filing as taught by Basseas (U.S. Patent 6,674,867).

Basseas teaches of a device for programming hearing aids that generate parameters of a hearing aid (13) and send those parameters to a hearing aid (13) via a programming unit (7). The user wears the programmed hearing aid 13 and he/she is asked to evaluate its performance while listening to specific speech/sound stimuli 12. The user then quantitatively rates it in terms of certain sound qualities such as loudness, tonality, comfort, clarity, etc. (column 4, lines 4-61). Combining Rho's method of testing with Basseas's device and hearing aid would read on "adjusting the hearing aid" as claimed. Rho teaches of remotely testing a person's hearing and Basseas teaches of using a computer it would have been a natural progression to at the same as the testing to adjust the hearing aid of the user. Basseas further teaches that the programming of the hearing prosthesis uses a neural network that generates targets to be matched by the hearing prosthesis based on an individual audiometric and other relevant data. An audiogram is defined as a graphic record of hearing ability for various sound frequencies that is used to measure hearing loss. Audiometric data reads on audiogram. Thus it would have been obvious to one of ordinary skill in the art to combine Rho's testing method with Basseas testing and device and method for the benefit of performing more precisely adapting a hearing aid to an individual.

**Claim 2** claims the method of claim 1 wherein said command is a DTMF tone. DTMF or dual tone multi-frequency tones, also known as Touch Tone is used for telephone signaling over the line in the voice frequency band to the call-switching center. Today DTMF is used for most

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call setup to the telephone exchange, at least in the Western world. Touch-tone is common with conventional and cellular phones. Thus it is obvious that DTMF would be used as the method of telephone signaling.

**Claim 3** claims the method of claim 1, wherein said receiving step comprises inputting a response to the outputted command into the second computer via a keyboard attached to the computer. Rho teaches that a user uses the telephone keypad to send a respond to the computer. The telephone keypad reads on "keyboard". The telephone itself is the second computer. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Rhos's and Basseas system for the benefit of giving the user the opportunity to indicate whether he or she has heard a test tone.

**Claim 4** claims the method of claim 1 wherein said receiving step comprises inputting a response to the command via a keypad on the telephone. Rho teaches on that the telephone gives the user the opportunity to respond to a tone. It would have been obvious to one of ordinary skill in the art at the time of the invention to use Rho's telephone as the means for the user to respond.

**Claim 7** claims the method of claim 1 wherein said adjusting step further comprises determining an accuracy of the user response. Determining an accuracy of the user response is obvious. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Rho's and Basseas combined system for the benefit of the capability of producing a hearing aid better fitted for the individual.

4. **Claims 19 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rho (U.S Patent 6,086,541) in view of Basseas (U.S. Patent 6,674,867).

Regarding claims 19 and 20, Rho discloses a method for testing hearing ability by using an automatic voice response system run by a computer comprising a computer (that includes the program) and a telephone. The user would call, the program is logged into, and the test program proceeds to execute a test (column 2, lines 35-column 5). The testing would begin and the user indicates, through the # button, whether a sound has been heard. The test proceeds until completed. This method reads on "generating a command via a first computer at a first location", "transmitting the command to a second computer at a second location over a remote data link", "receiving a user response to the test tone over the remote data link", and "sending the command from the second computer to a digital signal processor in one of a telephone or hearing aid" because the telephone itself reads on a second computer and there is obviously a digital signal processor internal to the phone. This also reads on the "outputting a test tone from the digital signal processor based on the output command to a user of the telephone". Although Rho teaches on the above elements, he fails to teach of a hearing aid present during the testing and= that the computer system processes the one or more responses from the user to generate parameters for controlling the operations of the hearing aid and the computer system transmitting the parameters to the hearing aid to adjust the operations of the hearing aid. However, the concept of a computer system processing one or more responses for controlling a hearing aid and a computer system that transmits the parameters of the hearing aid as claimed were well known in the art at the time of filing as taught by Basseas (U.S. Patent 6,674,867). Basseas teaches of a device for programming hearing aids that generate parameters of a hearing aid (13) and send those parameters to a hearing aid (13) via a programming unit (7). The user wears the programmed hearing aid 13 and he/she is asked to evaluate its performance while

listening to specific speech/sound stimuli 12. The user then quantitatively rates it in terms of certain sound qualities such as loudness, tonality, comfort, clarity, etc. (column 4, lines 4-61).

Combining Rho's method of testing with Basseas's device and hearing aid would read on "adjusting the hearing aid" as claimed. Rho teaches of remotely testing a person's hearing and Basseas teaches of using a computer it would have been a natural progression to at the same as the testing to adjust the hearing aid of the user. Thus it would have been obvious to one of ordinary skill in the art to combine Rho's testing method with Basseas testing and device and method for the benefit of performing more precisely adapting a hearing aid to an individual.

5. **Claims 8-11,13-17, 21 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rho (U.S. Patent 6,086,541) in view of Basseas (U.S. Patent 6,674,867).

Regarding claims 8, 21 and 22, Rho discloses a method for testing hearing ability by using an automatic voice response system run by a computer comprising a computer (that includes the program) and a telephone. The user would call, the program is logged into, and the test program proceeds to execute a test (column 2, lines 35-column 5). The testing would begin and the user indicates, through the # button, whether a sound has been heard. The test proceeds until completed. This method reads on "generating a command via a first computer", "receiving a user response to the test tone over the remote data link", and "sending the command from the second computer to a digital signal processor in one of a telephone or hearing aid" because the telephone itself reads on a second computer and there is obviously a digital signal processor internal to the phone. This also reads on the "outputting a test tone from the digital signal processor based on the output command to a user of the telephone". The phone keypad reads on "keyboard". It is obvious that the responses are stored. Although Rho teaches



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on the above elements, he fails to teach of a hearing aid present during the testing and= that the computer system processes the one or more responses from the user to generate parameters for controlling the operations of the hearing aid and the computer system transmitting the parameters to the hearing aid to adjust the operations of the hearing aid. However, the concept of a computer system processing one or more responses for controlling a hearing aid and a computer system that transmits the parameters of the hearing aid as claimed were well known in the art at the time of filing as taught by Basseas (U.S. Patent 6,674,867). Basseas teaches of a device for programming hearing aids that generate parameters of a hearing aid (13) and send those parameters to a hearing aid (13) via a programming unit (7). The user wears the programmed hearing aid 13 and he/she is asked to evaluate its performance while listening to specific speech/sound stimuli 12. The user then quantitatively rates it in terms of certain sound qualities such as loudness, tonality, comfort, clarity, etc. (column 4, lines 4-61). Rho teaches of remotely testing a person's hearing and Basseas teaches of using a computer it would have been a natural progression to at the same as the testing to adjust the hearing aid of the user. Combining Rho's method of testing with Basseas's device and hearing aid would read on "adjusting the hearing aid" as claimed. Basseas's teaches that audiometric data is

Thus it would have been obvious to one of ordinary skill in the art to combine Rho's testing method with Basseas testing and device and method for the benefit of performing more precisely adapting a hearing aid to an individual.

**Claim 9** claims the method of claim 8 wherein said command is a DTMF tone. DTMF or dual tone multi-frequency tones, also known as Touch Tone is used for telephone signaling over the line in the voice frequency band to the call-switching center. Today DTMF is used for most

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call setup to the telephone exchange, at least in the Western world. Touch-tone is common with conventional and cellular phones. Thus it is obvious that DTMF would be used as the method of telephone signaling.

**Claim 10** claims the method of claim 8, wherein said receiving step comprises inputting a response to the output command into the computer via a keyboard attached to the computer. Rho teaches that a user uses the telephone keypad to send a respond to the computer. The telephone keypad reads on "keyboard". The telephone itself is the second computer. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Rhos's and Basseas system for the benefit of giving the user the opportunity to indicate whether he or she has heard a test tone.

**Claim 11** claims the method of claim 8 wherein said receiving step comprises inputting a response to the command via a keypad on the telephone. Basseas teaches that the user can input a response to the tone via the telephone. It would have been obvious to one of ordinary skill in the art at the time of the invention to use Rho's phone as the means for the user to respond.

**Claim 13** claims the method of claim 8, wherein said audiogram is a compensation curve for adjusting performance characteristics of the hearing aid based on the user response. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use an audiogram to adjust the performance characteristics as claimed for the benefit of more accurately adjusting the hearing aid. An audiogram is defined as a graphic record of hearing ability for various sound frequencies that is used to measure hearing loss. Audiometric data reads on audiogram.

**Claim 14** claims the method of claim 8, wherein the command is generated by a first computer at a first location and is received by a second computer at a second location, and said second computer sends the command to the digital processor. Hearing aids are essential to those who suffer from hearing loss since it is presently the only real option to regain that loss. Adjustment of hearing aids is well known in the art and with the continual advancement and improvement of technology it would have been foreseeable to come up with a method that would allow for remote adjusting of a hearing. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Rhos's and Basseas's combined system for the benefit of quickly adjusting a hearing aid.

**Claim 15** claims the method of claim 14 wherein the response is stored in the first computer. The first computer is the computer and it obviously has a memory and it would be obvious to store the response. Thus all elements of claim 15 are comprehended by claim 8. Therefore, claim 15 is rejected for reasons stated above apropos of claim 8.

**Claim 16** claims the method of claim 14 wherein the response is stored in the second computer. In Rho's and Basseas combined system, there is obviously a response stored in the phone. Hence, the combination of Campbell and Platt also meet all elements of claim 17.

**Claim 17** claims the method of claim 14 wherein the response is stored in the first and second computer. Basseas teaches that the computer and the hearing aid store data. Hence, the combination of Campbell and Platt also meet all elements of claim 17.

6. **Claims 23-27 and 44-48** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rho (U.S. Patent 6,086,541) in view of Basseas (U.S. Patent 6,674,867).

Regarding claims 23 and 44, Rho discloses a method for testing hearing ability by using an automatic voice response system run by a computer comprising a computer (that includes the program) and a telephone. The user would call, the program is logged into, and the test program proceeds to execute a test (column 2, lines 35-column 5). The testing would begin and the user indicates, through the # button, whether a sound has been heard. The test proceeds until completed. This method reads on "a computer system transmits a sequence of one or more non-audible commands to a processor in one of a telephone and the hearing aid". "the processor causes an audible test tone to be generated in response to receipt of each command wherein when the processor is in the telephone, the telephone generates each test tone", "the computer system receives a response to each of one or more of the test tones from the user", "the computer system processes the one or more responses from the user". Although Rho teaches on the above elements, he fails to teach that the computer system processes the one or more responses from the user to generate parameters for controlling the operations of the hearing aid and the computer system transmitting the parameters to the hearing aid to adjust the operations of the hearing aid. However, the concept of a computer system processing one or more responses for controlling a hearing aid and a computer system that transmits the parameters of the hearing aid as claimed were well known in the art at the time of filing as taught by Basseas (U.S. Patent 6,674,867). Basseas teaches of a device for programming hearing aids that generate parameters of a hearing aid (13) and send those parameters to a hearing aid (13) via a programming unit (7). The user wears the programmed hearing aid 13 and he/she is asked to evaluate its performance while listening to specific speech/sound stimuli 12. The user then quantitatively rates it in terms of certain sound qualities such as loudness, tonality, comfort, clarity, etc. (column 4, lines 4-61).

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Rho teaches of remotely testing a person's hearing and Basseas teaches of using a computer. It would have been a natural progression to at the same as the testing to adjust the hearing aid of the user. Basseas further teaches that the programming of the hearing prosthesis uses a neural network that generates targets to be matched by the hearing prosthesis based on an individual audiometric and other relevant data. An audiogram is defined as a graphic record of hearing ability for various sound frequencies that is used to measure hearing loss. Audiometric data reads on audiogram. Rho teaches of remotely testing a person's hearing and Basseas teaches of using a computer. It would have been a natural progression to at the same as the testing to adjust the hearing aid of the user. Combining Rho's method of testing with Basseas's device and hearing aid would read on "the computer system transmits the parameters to the hearing aid to adjust the operations of the hearing aid". Thus it would have been obvious to one of ordinary skill in the art to combine Rho's testing method with Basseas testing and device and method for the benefit of performing more precisely adapting a hearing aid to an individual.

**Claim 24** claims the invention of claim 23, wherein the processor is in the telephone and the telephone generates each test tone. All elements of claim 24 are comprehended by claim 23. Therefore, claim 24 is rejected for reasons stated above apropos of claim 23.

**Claim 25** claims the invention of claim 24, wherein the user enters each response via a keypad on the telephone and the telephone transmits the user's responses to the computer system. Rho teaches that at a user's response or not, a signal is sent to the computer identifying that signal.

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**Claim 26** claims the invention of claim 24, wherein the user enters each response via a keyboard attached to the computer system. Rho teaches that the user enters a response using the phone keypad, the keypad reading on "keyboard". The phone itself reads on the computer.

**Claim 27** claims the invention of claim 24, wherein the computer system transmits the commands to the processor in the telephone using DTMF signaling. DTMF or dual tone multi-frequency tones, also known as Touch Tone is used for telephone signaling over the line in the voice frequency band to the call-switching center. Today DTMF is used for most call setup to the telephone exchange, at least in the Western world. Touch-tone is common with conventional and cellular phones. Thus it is obvious that DTMF would be used as the method of telephone signaling.

**Claim 45** claims the invention of claim 44, wherein the processor is in the telephone and the telephone generates each test tone. All elements of claim 45 are comprehended by claim 44. Therefore, claim 45 is rejected for reasons stated above apropos of claim 44.

**Claim 46** claims the invention of claim 45, wherein the user enters each response via a keypad on the telephone and the telephone transmits the user's responses to the computer system. Rho teaches that at a user's response or not, a signal is sent to the computer identifying that signal.

**Claim 47** claims the invention of claim 45, wherein the user enters each response via a keyboard attached to the computer system. Rho teaches that the user enters a response using the phone keypad, the keypad reading on "keyboard". The phone itself reads on the computer.

**Claim 48** claims the invention of claim 45, wherein the computer system transmits the commands to the processor in the telephone using DTMF signaling. DTMF or dual tone multi-

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frequency tones, also known as Touch Tone is used for telephone signaling over the line in the voice frequency band to the call-switching center. Today DTMF is used for most call setup to the telephone exchange, at least in the Western world. Touch-tone is common with conventional and cellular phones. Thus it is obvious that DTMF would be used as the method of telephone signaling.

7. **Claim 36** is rejected under 35 U.S.C. 103(a) as being unpatentable over Crouch et al. (U.S. Patent 5,796,821) in view of Rho (U.S. Patent 6,086,541) in further view of Basseas (U.S. Patent 6,674,867).

Regarding **claim 36**, Crouch discloses a hearing aid telephone interconnect system comprising a hearing aid that can receive voice signals received from the telephone base unit via an electromagnetic field. Then the hearing aid provides audio signals to the user's ear, which reads on "receive a sequence of one or more non-audible commands from a computer system". Crouch teaches of audio signals generated by the hearing aid in response to the non-audible commands. Rho teaches of a method for testing hearing ability by using an automatic voice response system run by a computer comprising a computer and a telephone. The user would call, the program is logged into, and the test program proceeds to execute a test (column 2, lines 35-column 5). The testing would begin and the user indicates, through the # button, whether a sound has been heard. The test proceeds until completed. Basseas discloses a device for programming hearing aids that generate parameters of a hearing aid (13) and send those parameters to a hearing aid (13) via a programming unit (7). The user wears the programmed hearing aid 13 and he/she is asked to evaluate its performance while listening to specific speech/sound stimuli 12. The user then quantitatively rates it in terms of certain sound qualities such as loudness,

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tonality, comfort, clarity, etc. (column 4, lines 4-61). Rho teaches of remotely testing a person's hearing and Basseas teaches of using a computer. It would have been a natural progression to at the same as the testing to adjust the hearing aid of the user. Replacing Rho's phone with Crouch's hearing aid telephone interconnect system would then read on "the computer system receives a response to each of one or more responses from the user" and the "the computer system processes the one or more responses from the user to generate parameters fro controlling operations of the hearing aid" and "receive the parameters from the computer system to adjust the operations of the hearing aid. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Crouch, Rhos's and Basseas teaching as stated above for the benefit of providing the individual with the capability of using conventional telephone equipment.

8. **Claims 40** is rejected under 35 U.S.C. 103(a) as being unpatentable over Rho (U.S. Patent 6,086,541) in view of Basseas (U.S. Patent 6,674,867).

Regarding **claim 40**, Rho discloses a method for testing hearing ability by using an automatic voice response system run by a computer comprising a computer (that includes the program) and a telephone. The user would call, the program is logged into, and the test program proceeds to execute a test (column 2, lines 35-column 5). The testing would begin and the user indicates, through the # button, whether a sound has been heard. The test proceeds until completed. This method reads on "receive a sequence of one or more non-audible commands from a computer system", "cause an audible test tone to be generated by the telephone in response to receipt of each command", "the computer system receivers a response to each of one or more of the test tones from the user". Although Rho teaches on the above elements, he fails to



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teach of a hearing aid present during the testing and that the computer system processes the one or more responses from the user to generate parameters for controlling the operations of the hearing aid and the computer system transmitting the parameters to the hearing aid to adjust the operations of the hearing aid. However, the concept of a computer system processing one or more responses for controlling a hearing aid and a computer system that transmits the parameters of the hearing aid as claimed were well known in the art at the time of filing as taught by Basseas (U.S. Patent 6,674,867). Basseas teaches of a device for programming hearing aids that generate parameters of a hearing aid (13) and send those parameters to a hearing aid (13) via a programming unit (7). The user wears the programmed hearing aid 13 and he/she is asked to evaluate its performance while listening to specific speech/sound stimuli 12. The user then quantitatively rates it in terms of certain sound qualities such as loudness, tonality, comfort, clarity, etc. (column 4, lines 4-61). Rho teaches of remotely testing a person's hearing and Basseas teaches of using a computer it would have been a natural progression to at the same as the testing to adjust the hearing aid of the user. Rho teaches of remotely testing a person's hearing and Basseas teaches of using a computer. It would have been a natural progression to at the same as the testing to adjust the hearing aid of the user. Combining Rho's method of testing with Basseas's device and hearing aid would read on "the computer system processes the one or more responses from the user to generate parameters for controlling the operations of the hearing aid. Thus it would have been obvious to one of ordinary skill in the art to combine Rho's testing method with Basseas testing and device and method for the benefit of performing more precisely adapting a hearing aid to an individual.

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All elements of **claim 43** are comprehended by claim 40. Thus claim 43 is rejection for reasons given above apropos of claim 40.

***Claim Objections***

9. **Claims 18, 28-35,37-39,41,42, 49-56** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 5,226,085 to Platt

U.S. Patent 4,548,082 to Engebretson et al.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 703-305-4359. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DF



MIN SUN OH HARVEY  
PRIMARY EXAMINER